

IN THE UNITED STATES BANKRUPTCY COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
DURHAM DIVISION

IN RE:)
)
GEORGE DEXTER SWANN) Case No. 10-80301
CARNETTA BROOKS SWANN) (Chapter 13)
Debtors.)

OBJECTION TO VALUATION

NOW COMES National Auto Finance Company (herein "NAF"), by and through its undersigned counsel, and hereby objects to the proposed valuation of its secured claim in the Debtors' Chapter 13 Plan. In support thereof, NAF shows unto the Court as follows:

1. The Debtors sought and obtained relief from the Court under Chapter 13 of the Bankruptcy Code, 11 U.S.C. §§1301-1330, by petition filed on or about February 19, 2010.

2. On or about February 28, 2004, the Debtors purchased a 2004 Mitsubishi Endeavor, VIN# 4A4MN21SX4E010681 (herein the "Vehicle") pursuant to the terms of an installment sales contract of even date (herein the "Contract"). A copy of the Contract is attached hereto marked Exhibit 1. The Contract was subsequently assigned to NAF, and NAF is now the sole owner and holder of same.

3. Under the terms of the Contract, NAF has a senior perfected first lien on the Vehicle. A copy of the Certificate of Title evidencing same is attached hereto marked Exhibit 2.

4. As of the petition date, the net payoff due and owing to NAF under the Contract was \$8,122.83, plus interest.

5. The Debtors' proposed Chapter 13 Plan allows NAF a secured claim for \$5,140.00 relative to the Vehicle. However, the retail value of the Vehicle as listed in the February, 2010 N.A.D.A. Book is \$9,450.00, comprised of a "base" retail value of \$10,075.00 for the make and model vehicle in question, with a \$625.00 deduction for high mileage (100,000 miles). See Exhibit 3. Based on this Court's practice of allowing secured claims to collateralized lenders at 90% of retail value as of the petition date, the secured claim amount would be \$8,505.00; however, since the value of the Vehicle exceeds the payoff, NAF should receive a secured claim in the Chapter 13 Plan for the Vehicle of no less than \$8,122.83.

WHEREFORE, NAF respectfully requests that the Court conduct a hearing for the purpose of determining the proper value of NAF's secured claim in this case, and that the Court thereafter enter an Order allowing NAF a secured claim on the Vehicle of no less than \$8,122.83, plus interest at a rate determined by the Trustee, and granting NAF such other and further relief as the Court deems necessary, just and proper.

This the 27th day of April, 2010.

KIRSCHBAUM, NANNEY, KEENAN & GRIFFIN, P.A.

By: s/ Pamela P. Keenan —

Pamela P. Keenan
N.C. State Bar No. 20328

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CERTIFICATE OF SERVICE

The undersigned hereby certifies that on this day, she served a copy of the foregoing on the parties in interest either electronically or by depositing copies of same in a depository under the exclusive care and custody of the United States Postal Service, in a postage-paid envelope, addressed as follows:

George and Carnetta Swann
601 Alpha Dr.
Mebane, NC 27302

John T. Orcutt
6616-203 Six Forks Rd.
Raleigh, NC 27615

Richard M. Hutson, II
PO Box 3613
Durham, NC 27702

This the 27th day of April, 2010.

s/ Gwen T. Best
Gwen T. Best
Paralegal